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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-third session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Note verbale dated 14 August 1991 from the Permanent Mission of Kuwait to the United Nations Office at Geneva addressed to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Permanent Mission of the State of Kuwait to the United Nations Office at Geneva would be grateful if the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities would kindly bring the attached note verbale to the attention of the Rapporteurs of the Sub-Commission who are concerned with agenda item 6. The Chairman is also requested to circulate the note verbale among the members of the Sub-Commission.

(Signed) Salem Jaber Al-Ahmad Al-Sabah
Ambassador
Permanent Representative

GE.91-12789/1220H

Ref: 3/10/7/15

The Permanent Mission of the State of Kuwait to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and wishes to clarify certain matters referred to by some human rights organizations at the forty-third session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities under agenda item 6, "Question of the violation of human rights and fundamental freedoms".

Before 2 August 1990, the State of Kuwait was a State governed by the rule of law in which Kuwaitis and foreigners lived under a just legal system. The high proportion of foreign residents (more than 70 per cent of the population of Kuwait) holding various nationalities (more than 130 nationalities) constitutes cogent proof of the fact that they were leading tranquil and secure lives under the rule of law in the State of Kuwait.

After its liberation from the clutches of Iraqi occupation on 26 February 1991, Kuwait began to tend its wounds and gather in its dispersed population in order to resume its former status as a civilized State participating in the promotion of justice, freedom and equality like the other peace-loving countries of the world. However, it has been subjected to a vicious, hostile campaign, concerning violations of human rights in Kuwait, in which rumours are being circulated with a view to provoking sedition and covering up the inhuman practices in which some groups residing in Kuwait participated in collusion with the invading forces. Naturally, all those who collaborated with the Iraqi forces during the occupation are now claiming to be subjected to ill-treatment on the part of the Government and people of Kuwait.

There may well have been some individual cases of ill-treatment in the early days following the liberation, in the absence of the legitimate Government. If such individual cases did indeed occur, they were a natural reaction, brought about by psychological pressures resulting from the effects of the Iraqi aggression, against some groups which collaborated with the invading forces, since many persons had suffered the ordeal of seeing their fathers, mothers, brothers, sisters and children tortured or killed before their eyes and had witnessed sexual assaults on their wives, daughters and sisters.

Nevertheless, the Government is diligently prosecuting all persons who have engaged in such acts, in accordance with the law in force in Kuwait. However, it should not be forgotten that acts of reprisal are also being committed against the Kuwaiti security forces by foreign groups still living in Kuwait. This has happened primarily at check-points where several members of the Kuwaiti armed forces have been killed. Some of those acts have also been committed by the "human mines" planted by the Iraqi intelligence services before their withdrawal from Kuwait in order to stir up sedition within the country.

Although the invading forces attempted to destroy everything in Kuwait, thereby making the tasks of the legitimate Government more difficult, especially from the security and judicial standpoints, since its return to the country the Kuwaiti Government has been diligently endeavouring to bring to justice all those misguided persons who are prejudicing the security and safety of its citizens.

The State of Kuwait is also prosecuting those who collaborated with the forces of the Iraqi regime during its occupation of Kuwait, in accordance with the law in force in the State of Kuwait. The Kuwaiti judiciary has dealt correctly and justly with all the cases brought before it and has passed equitable judgement on all the defendants, regardless of their nationality. None of them has been brought before the court without witnesses and evidence and none of them has stood before the court without a lawyer. The court has granted all requests relating to the defence of the accused, who have been acquitted or convicted either in their presence or in absentia.

Moreover, the Government of Kuwait reached an agreement with the International Committee of the Red Cross, under the terms of which the latter was invited to visit and hold private interviews with any detainees in Kuwait and submit reports to the authorities for the investigation of any violations committed against them. The Government also appointed a representative of the Ministry of Justice at each detention centre to monitor and investigate any alleged violations of the rights of citizens or foreign residents of any nationality.

How many States in the world, after experiencing circumstances such as those through which the State of Kuwait has passed, have accorded such legal treatment to persons accused of collaborating with their enemies who invaded their territory, killed their children, young men and aged citizens, raped their women and tortured persons of both sexes. Kuwait has done so in the presence of the various international information media, as well as Ammesty International and other human rights associations, which observed and heard all the court proceedings.

With regard to the question of stateless persons, we wish to point out that no one in the world lacks a nationality or roots in a particular country of origin. In the past, their fathers or grandfathers must have come from some place of origin somewhere in this wide world. In the case of the nomads and sheep-herders in the Kuwaiti desert, they have long been well known to the people of Kuwait and, being very few in number even in relation to the small size of Kuwait's own population in the past, were all granted Kuwaiti citizenshp when the Nationality Act came into force following the achievement of independence.

It is quite easy to claim to belong to the category of so-called stateless persons in Kuwait. A person merely has to conceal his passport and claim to be a Kuwaiti whose forefathers had been sheep-herders in the Kuwaiti desert from time immemorial but who has not yet been granted citizenship. The underlying reason for these persons to conceal their original nationality and appear before the Kuwaiti authorities in the guise of stateless persons can be found in the services which are enjoyed by Kuwaitis since, in some matters, the law treats stateless persons in the same way as Kuwaitis on humanitarian

grounds. It is easy to understand why some persons seek to acquire the nationality of States whose citizens enjoy privileges. This, in itself, is unobjectionable since many nationals of third world countries apply for naturalization in Europe, America or elsewhere in accordance with the law of the State whose nationality they wish to acquire without concealing their original nationality. There is a difference between a person seeking to acquire the nationality of a country in which he wishes to live and a person seeking to acquire the nationality of a country by claiming to have no roots in any country of the world and classifying himself as stateless.

Of the many Arabs and non-Arabs who have lived among the people of Kuwait and rendered splendid services to the State of Kuwait, some have been granted Kuwaiti citizenship and others have retained their own nationality without prejudice to any of their rights. This is only natural. However, in the eyes of the people and the Government, it is unacceptable for persons without roots and of questionable loyalty (as manifested during the Gulf war) to live among us, since this is far from just and equitable and is prejudicial to the security of the State of Kuwait.

The Permanent Mission of the State of Kuwait trusts that all parties will endeavour to ascertain the true state of affairs by seeking detailed information and background knowledge from reliable sources. It also hopes that emphasis will be placed on the positive aspects and that the critical situation and exceptional circumstances through which the State of Kuwait has passed, and is still passing, as a result of the iniquitous Iraqi aggression will be duly taken into consideration. Kuwait was, and still is, a State governed by the rule of law in which human rights are respected.

We would be grateful if the Centre would kindly bring this note to the attention of the Chairman of the forty-third session of the Sub-Commission and have it circulated among the members as an official document of the Sub-Commission.

The Permanent Mission of the State of Kuwait takes this opportunity to convey to the Centre for Human Rights the assurances of its highest consideration.

Geneva, 14 August 1991